IN THE HIGH COURT OF JUDICTURE FOR RAJASTHAN AT JODHPUR.

O R D E R

Smt. Chandrakala Bhati. Versus State of Rajasthan & ors.

S.B. Civil Writ Petition No. 6404/2003

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Date of Order: January 08, 2007

PRESENT

HON'BLE MR. JUSTICE H.R. PANWAR

Ms. Nupur Bhati, for the petitioner.
Mr. Rameshwar Dave, Deputy Govt. Advocate.

BY THE COURT:

The instant writ petition under Articles 226 and 227 of the Constitution of India was filed by the present petitioner on 10-11-2003 seeking a direction to the non-petitioners to pay the retiral benefits like pension, gratuity, G.P.F., and other consequential benefits to the petitioner along with interest @ 18% per annum.

The facts and circumstances giving rise to the instant writ petition are that the petitioner was an employee of the non-petitioners on the post of Senior Teacher and came to be superannuated on 30-11-2002. She lastly serviced in the Girls Senior Secondary School, Gangashahar and was superannuated by the order dated 12-11-2002 with effect from 30-11-2002 vide

Annx.1. The petitioner completed all the formalities and submitted all the papers for grant of pension, gratuity, G.P.F., and other retiral benefits; however, finding inaction on the part of the non-petitioners, she made several representations seeking retiral benefits, vide representations dated 23-3-2003, 19-5-03 and 7-5-2003. Despite repeated representations, the non-petitioners failed to make payment of retiral benefits to her and thereafter the petitioner filed the instant writ petition.

I have heard learned counsel for the parties.

Learned counsel for the petitioner submits that during pendency of the writ petition, the petitioner has been paid the retiral benefits on 21-1-2004 and the only controversy remains in the writ petition is that as the non-petitioners, without reasonable cause, withheld the retiral benefits of the petitioners, therefore, in view of the Notification/Circular dated 24-2-2001, the petitioner is entitled for interest on the retiral benefits after expiry of 60 days from the date of her retirement. Learned counsel further submits that the petitioner is entitled for interest with effect from 1-2-2003, i.e. just after 60 days from the date of her retirement on 30-11-2002 till she received the payment on 21-1-2004 and, therefore, the petitioner claimed interest on the retiral benefits with effect from 1-2-2003 to 20.1.2004.

By the Notification/Circular dated 24-2-2001 issued

under the Rajasthan Civil Services (Pension) Rules, 1996, the non-petitioners provided that in the event of payment of retiral benefits after 60 days and if it is established that the delay was not on account of fault of the employee then payment of interest @ 12% from the date till actual payment is to be made. This rule came to be amended by the Notification dated 7-6-2006 in exercise of the power conferred under sub-rule (1) of the Rules of 1989 of the Rajasthan Civil Services (Pension) Rules, 1996 by substituting the earlier sub-section (1) and providing that in the event of delay in payment of retiral benefits after 60 days from the date such payments become due and if it was established that delay was not caused on account of failure on the part of the Government servant then interest @ 9% per annum from the date retiral benefits become due, would be payable till the end of the month preceding the month in which payment of such dues are authorized. Sub-rule (1) of the Rules of 1980 of Rajasthan Civil Services (Pension) Rules, 1996 reads as under:-

> "If the payment of retiral benefits has been authorised after 60 days from the date when its payment became due, and it is established that the delay in payment was not on account of failure on the part of the Government servant in compliance of the procedure laid down in this chapter or else where in these rules, interest @ 9% per annum from the date retiral benefits become due would be payable till the end of the month preceding the month in which the retiral benefits are authorised."

A Division Bench of this Court, in Mohd. Saddiqui Vs. State of Rajasthan, 2006 (8) RDD 4307 (Raj.), held that there has been culpable negligence on the part of the respondents in granting retiral benefits which makes the petitioners therein entitled to interest on the delayed payment of retiral dues. The rate of interest when the appellant threin retired was much higher than the current rate of interest. In the aforesaid circumstances, the Court held that the ends of justice would be met if the respondents are directed to pay interest @ 10% with effect from the date of retirement till the date of actual payment.

In Kishan Lal Mathur Vs. State of Rajasthan & ors., 2006 (8) RDD 4549 ((Raj.), considering the provision of sub-rule (1) of the Rajasthan Civil Services (Pension) Rules, 1996, this Court directed the respondents therein to pay interest to the petitioner therein @ 9% per annum for the period of delay in making payment of retiral benefits.

In the instant case, though the rate of interest has been reduced by the subsequent notification dated 7-6-2004 but the petitioner herein is entitled for the interest on the delayed payment of retiral benefits from 1-2-2003 to 21-1-2004 at the then prevailing rate of interest as the Notification dated 24-2-2001, which provided the interest @ 12% per annum, as in the instant case, it has been established that the delay in making payment of retiral benefits has occasioned on account of inaction

on the part of the non-petitioners and at any rate, the delay was not on account of fault on the part of the petitioner (the government servant) and, therefore, the petitioner is entitled for the interest on the delayed payment of retiral benefits @ 12% per annum. In this view of the matter, the writ petition succeeds to the extent of granting of interest on the delayed payment of retiral benefits.

Consequently, the writ petition is allowed and the non-petitioners are directed to pay interest to the petitioner @ 12% per annum for the period w.e.f. 1-2-2003 to 20-1-2004 for the delay in making payment of retiral benefits. The stay petition stands disposed of. There shall be no order as to the costs.

(H.R. PANWAR), J.

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